

ORDINANCE NO. 4949

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE CODE OF THE CITY OF CHANDLER, CHAPTER 11 - CURFEW, GRAFFITI, SMOKING AND MISCELLANEOUS OFFENSES TO ADD SECTION 11-17 - REGULATION OF MARIJUANA; PROHIBITING CONSUMPTION OF MARIJUANA ON CITY PROPERTY; PROHIBITING RECREATIONAL MARIJUANA RETAIL SALES AND MARIJUANA TESTING FACILITIES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol, which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al., and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et al.; and

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of medical marijuana dispensaries in Chandler according to a prescribed statutory and regulatory process; and

WHEREAS, the statewide ballot measure Proposition 207, known as the “Smart and Safe Arizona Act,” was approved by voters during the November 3, 2020 general election; and

WHEREAS the law contains provisions to 1) authorize the sale of non-medicinal recreational marijuana to adults who are at least twenty-one years of age; 2) authorize adults over age twenty-one to possess marijuana for non-medicinal recreational use; and 3) allow cities to enact reasonable regulations to protect public health, safety, and welfare, including limitations on recreational marijuana retail establishments, marijuana testing facilities, and delivery of recreational marijuana; and

WHEREAS, the City of Chandler seeks to protect public health, safety, and welfare by 1) prohibiting the consumption of marijuana on city property; and 2) prohibiting recreational marijuana retail sales and marijuana testing facilities in the City to the extent permitted by law.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. The Chandler City Code, Chapter 11 - Curfew, Graffiti, Smoking and Miscellaneous Offenses, is hereby amended to add the following new Section 11-17. - Regulation of Marijuana:

11-17. - Regulation of Marijuana*11-17.1. Definitions*

The below words and phrases, wherever used in this section, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. *Consume, Consuming, and Consumption* mean the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.
- B. *Dual Licensee* means an entity licensed by the Arizona Department of Health Services to operate both a nonprofit medical marijuana dispensary and a recreational marijuana retail establishment at a single shared location.
- C. *Marijuana*
 - 1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.
 - 2. Includes cannabis as defined in Ariz. Rev. Stat. § 13-3401.
 - 3. Includes marijuana concentrate.
 - 4. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, or sterilized seeds of the plant used to prepare topical or oral administrations, food, drink, or other products.
- D. *Marijuana Concentrate*
 - 1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture, or preparation of that resin or tetrahydrocannabinol.
 - 2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.
- E. *Marijuana Products* means products that are composed of marijuana concentrate and other ingredients and that are intended for consumption or introduction into the body, including edible products, ointments, tinctures, and vapor solutions.

- F. *Marijuana Testing Facility* means the Arizona Department of Health Services or another entity that is licensed by the department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- G. *Nonprofit Medical Marijuana Dispensary* means a non-profit entity licensed to sell marijuana to qualifying patients for medicinal purposes, as defined in the Arizona Medical Marijuana Act, chapter 28.1 of Title 36, Arizona Revised Statutes.
- H. *Person* means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- I. *Recreational Marijuana Retail Establishment* means an entity licensed by the Arizona Department of Health Services to sell marijuana and marijuana products for non-medicinal recreational use.

11-17.2. Marijuana possession and consumption prohibited on public property.

It is unlawful to consume marijuana or marijuana products on property that is occupied, owned, controlled, or operated by the City of Chandler.

11-17.3. Recreational marijuana retail establishment prohibited.

The operation of a recreational marijuana retail establishment is prohibited in Chandler. This prohibition does not apply to a dual licensee who is permitted by the State of Arizona to operate both a nonprofit medical marijuana dispensary and a recreational marijuana retail establishment at a single shared location.

11-17.4. Marijuana testing facilities prohibited.

The operation of a marijuana testing facility is prohibited in Chandler.

11-17.5. Penalties.

A violation of this section is a civil infraction subject to the provisions of Chapter 26 of this Code.

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance, or any part of the Code adopted herein by reference, are hereby repealed.

Section 3. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. Providing for Penalties.

Unless otherwise provided for in federal or state law, a violation of this ordinance is a civil infraction and shall be punishable as provided for in Chandler City Code Chapter 26.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2020.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2020.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I, HEREBY CERTIFY, that the above and foregoing Ordinance No. 4949 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2020, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



PUBLISHED: